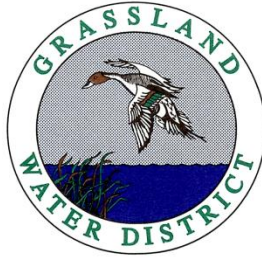


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August 26, 2013

VIA E-MAIL

Dr. Jelena Hartman
Central Valley Regional Water Quality Control Bd.
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114
jhartman@waterboards.ca.gov

Re: Comments on Draft Farm Templates for Eastern San Joaquin River Watershed (General Order R5-2012-0116)

Dear Dr. Hartman,

Please accept these comments from the Grassland Water District and Grassland Resource Conservation District ("GWD"), on the draft Templates for Waste Discharge Requirements for Growers in the Eastern San Joaquin River Watershed ("Templates"). GWD is located in the Western San Joaquin River ("SJR") watershed, but it submits these comments because the Central Valley Regional Water Quality Control Board ("RWQCB") has indicated that growers in the Western SJR watershed will be required to use the same Templates as the Eastern SJR watershed.¹

At the RWQCB's public workshop on the Long Term Irrigated Lands Program ("ILRP") in Los Banos on July 30, 2013, I addressed the Board Members regarding the benefits provided by managed wetlands in GWD and surrounding state and federal refuges, and the challenges posed by the RWQCB's inclusion of managed wetlands on equal footing with irrigated croplands in the ILRP. Board

¹ Draft Waste Discharge Requirements General Order R5-2013-xxxx for Growers within the Western San Joaquin River Watershed (June 2013), p. 31.

Member Jon Castantino questioned the reasonableness of treating managed wetlands the same as irrigated croplands under the IRLP. Board members Jennifer Lester Moffit and Carmen L. Ramirez directed staff to take special consideration of the wetlands complex better understanding its significance as a public trust resource, and to work collaboratively with the Grassland wetland managing entities in the development of requirements in the Long Term ILRP. As described below, it is unreasonable and impractical to impose the same requirements on managed wetlands, and the financial ability to manage this important ecological resource has been negatively affected by the ILRP. GWD invites RWQCB staff to work with GWD on crafting appropriate modifications to the Templates and monitoring and reporting requirements for managed wetlands under the Long Term ILRP. The comments below reflect GWD's preliminary concerns and ideas for the Templates.

1. **Managed wetlands provide a significant public trust benefit and do not contribute farm-related pollution to the Western SJR watershed**

GWD is the largest component of the Grassland Ecological Area ("GEA"). Including nearly 200,000 acres and more than 300 square miles, the GEA is the largest contiguous freshwater wetland complex west of the Rocky Mountains, and hosts millions of migratory birds each year and a diverse resident population of wildlife, including threatened and endangered species. This vast area is located in western Merced County and is comprised of private, state, and federally owned wetland areas. Federal law designates these managed wetlands and provides water supplies for the purpose of mitigating the wetland impacts associated with historical reclamation efforts in California, which eliminated much of the natural hydrology that once flooded these wetlands seasonally.² As more than 90% of California's wetlands have been destroyed over the last one hundred and fifty years, it is critical that the few wetlands that do remain be optimally managed to help meet the metabolic and habitat requirements of the migratory species that nature provided historically on a larger scale.

The importance of the GEA to the public trust wildlife resources of the state, the country, and the world cannot be understated. The wetlands of the GEA are of particular importance to the migratory waterfowl of the Pacific Flyway, a migration route that spans North America from the arctic to the tropics. Pacific Flyway waterfowl populations average 6.6 million birds annually, which is only a fraction of the estimated tens of millions of birds that filled the skies before much of their wetland habitat was lost. More than half of this waterfowl population spend their winters in the GEA, which is the single most important block of remaining wetlands in the Central Valley. The Grasslands are designated as a "Wetland of International Importance" under the International Ramsar Convention on Wetlands, and designated as a "Western Hemisphere Shorebird Reserve Network Site of International Importance." The Grasslands are one of the most important

² Central Valley Project Improvement Act, Public Law 102-575, Title 34, section 3406(d).

shorebird habitats in the western United States, and host one of the largest wintering shorebird populations of any inland site in western North America.

In addition to providing habitat for migratory waterfowl and other wetland-dependent animals and plants, wetlands provide significant ecological benefits, such as recharging aquifers, absorbing and storing floodwaters, reducing erosion, and **improving** water quality.³ **Unlike irrigated croplands, the owners of managed wetlands do not apply pesticides, herbicides, or fertilizer to the land.** Accordingly, management of these wetlands through seasonal flooding to mimic natural processes does not contribute pollutants that increase the toxicity, turbidity, or nutrient content of surface and groundwater.

2. The draft Farm Evaluation is inapplicable to managed wetlands, and an exemption for managed wetlands should be attached

The draft order of waste discharge requirements for the Western SJR watershed identifies managed wetlands as “irrigated lands.” Each landowner or land manager must submit a Farm Evaluation to the designated third-party representative, and update it every five years. The draft Farm Evaluation Template is not appropriate for managed wetlands. GWD requests that an attachment be added to the Farm Evaluation Template, entitled a “Managed Wetlands Exemption Form.” Owners and managers of managed wetlands could submit the exemption form in lieu of the Farm Evaluation. By signing the exemption form with a certification statement, the owner or manager would certify that the property is only used for managed wetland purposes, that no pesticides or fertilizers have been applied in the last five years.

It would be difficult, if not impossible, for the owner or manager of a managed wetland property to complete the draft Farm Evaluation. Part A requests information on wells, abandoned wells, and wellhead practices designed to prevent infiltration of chemicals and nutrients into groundwater. GWD’s individual landowners do not use agricultural groundwater wells.⁴ Moreover, because there is

³ See <http://www.watereducation.org/userfiles/ABriefingonCaliforniaWetlands.pdf>, p. 4 (wetlands are referred to as the “kidneys of the landscape”; one acre of wetlands can filter 7.3 million gallons of water per year; <http://www.ducks.org/conservation/habitat/page2>; http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/0910/cityofloyalton/loyalton_wdrs.pdf (the RWQCB has required managed wetlands as mitigation in its waste discharge requirements, to filter water and help improve water quality)).

⁴ There are several wells within GWD that are used for groundwater production to help meet the federal government’s water supply obligations to managed wetlands. Under contract with the federal Bureau of Reclamation (“BOR”), GWD routinely monitors this groundwater for naturally occurring concentrations of selenium, boron, and salts, and regularly reports those results to BOR. GWD’s monitoring efforts are further described below.

no application of chemicals or fertilizers to the land, the purpose of requiring wellhead practices would not be achieved on managed wetlands. Part A also requests information on pesticide application practices, which do not apply to managed wetlands, and it asks about sediment discharges, though managed wetlands are well known for helping to trap sediment and reduce erosion.

Part B of the Farm Evaluation asks which “field crops,” “vegetable crops,” and “fruit & nut crops” are grown on the property, which irrigation practices are used (drip, furrow, sprinkler, etc.), and which nitrogen management methods are used. None of these are applicable to managed wetlands, which grow native vegetation and do not use crop irrigation methods or apply nitrogen to the land.

3. Nitrogen Management Plans are unnecessary for managed wetlands, which should be exempted from this requirement

The draft Nitrogen Management Plan (“NMP”) Worksheet asks for information on the “season” when crops are produced, actual and projected crop yields, crop nitrogen needs, fertilizer types, and application methods used, in order to reach a final ratio of nitrogen supplied over nitrogen needed by crops. Nothing in the NMP Worksheet is applicable to managed wetlands, which do not grow “crops” or apply fertilizers. Moreover, the Grasslands are not located in a high vulnerability area, because area groundwater is not used for drinking water. A NMP Summary Report would be equally inapplicable to managed wetlands. Owners and managers of managed wetlands must be exempted from the requirement to complete the NMP Worksheet annually and keep it on site, and must also be exempted from the requirement to prepare NMP Summary Reports, although we are confident that this requirement will not apply to the Grasslands since it is not located in a high vulnerability area.

4. The Sediment and Erosion Control Plan does not apply to managed wetlands

The third Template, the Sediment and Erosion Control Plan, is a checklist of “irrigation practices” and “cultural practices” to minimize or eliminate the discharge of sediment. First, none of the listed irrigation practices apply to managed wetlands (drip irrigation, timing to reduce pesticide runoff, flow dissipaters, etc.). Second, the applicable listed cultural practices are already implemented in managed wetlands as a matter of course (vegetative buffers, holding ponds, native vegetation, minimum tillage, etc.). If the owner or manager of managed wetlands is permitted to file an exemption form in lieu of the Farm Evaluation, then he/she will not be required to complete the Sediment and Erosion Control Plan checklist, unless the third-party representative or the Executive Officer identifies a potential erosion problem. Once again, GWD therefore requests exemption from the Farm Evaluation.

5. Program fees should be reduced accordingly for managed wetlands

As applied to managed wetlands, the draft Templates would not result in the collection of data or the implementation of management actions that would help a designated third party or the RWQCB improve surface and groundwater quality. This illustrates the problem with defining managed wetlands as “irrigated lands” under the ILRP. If managed wetlands are required to submit the draft Templates and pay the associated administrative costs, the only result will be a burdensome financial obligation on the owners and managers of this important ecological resource. Unlike agricultural fields, managed wetlands do not produce crops or any other commercial product. Wetland owners do not manage their lands for profit. A small number of duck clubs accept duck-blind rental fees from the public, but even these clubs have low rates of return.

Furthermore, GWD already contributes a significant amount of money and staff time to monitor and report compliance with the “TMDL” limits for naturally occurring selenium, boron, and salts, as set forth in the RWQCB Basin Plan. The Real Time Water Quality Monitoring Network that has been implemented in the GRCD, which consists of approximately 50 monitoring stations, is at the forefront of water quality monitoring programs. This program requires approximately \$500,000 annually to operate and maintain and infrastructure investments exceed \$5,000,000 since the inception of the ILRP. GWD’s monitoring reports are routinely attached to the monitoring reports submitted by the Westside Drainage Coalition under the ILRP.

Managed wetlands should not be further burdened with administrative fees under the ILRP associated with the reporting, monitoring, and management requirements for toxics, nitrates, and sediment. This money would be better spent improving the habitat, through acquiring critical water supplies and expanding wetland conservation easements. GWD would be happy to work with RWQCB staff to refine the scope of participation and fee obligations for managed wetlands under the ILRP.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ric Ortega', with a large, stylized flourish at the end.

Ric Ortega
General Manager